

MEMORANDUM

TO: County Council

FROM: *MF* Michael Faden, Senior Legislative Attorney

SUBJECT: **Introduction:** Expedited Bill 5-09, Permit Fees – New Construction - Deferral

Expedited Bill 5-09, Permit Fees – New Construction - Deferral, sponsored by the Council President at the request of the County Executive, is scheduled to be introduced on February 10, 2009. A public hearing is tentatively scheduled for March 3 at 1:30 p.m.

Bill 5-09 would allow applicants to defer permit, inspection, license, and engineering fee payments for 12 months and set out the terms and conditions of the deferral and the repayment of the deferred fees. It also extends the time limits to abandon a building permit and to record the initial building inspection with the Department.

This packet contains

Expedited Bill 5-09
Legislative Request Report
Memo from County Executive

Circle

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Expedited Bill No. 5-09
Concerning: Permit Fees - New
Construction - Deferral
Revised: 2-9-09 Draft No. 2
Introduced: February 10, 2009
Expires: August 10, 2010
Enacted: _____
Executive: _____
Effective: _____
Sunset: See § 2
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- (1) authorize the deferral of certain permit, inspection, license, and engineering fee payments for a certain period;
- (2) extend the time limit for abandonment of a building permit;
- (3) extend the time for recording an initial building inspection; and
- (4) generally amend the laws regarding permits and related fees.

By amending

Montgomery County Code
Chapter 8, Buildings
Sections 8-24 and 8-25

By adding

Chapter 2, Administration
Section 2-42C

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

within [12] 18 months after the permit is issued and a second approved inspection is not recorded in the Department's inspection history file within [14] 20 months after the permit is issued; or

* * *

2-42C. Permit fees -new construction - deferrals.

(a) Definitions. In this section the following words have the meanings indicated:

(1) Fee or Fees mean any permit fee, license fee, inspection fee, or engineering fee required to be paid before a permit or license is issued or an inspection is made under Chapter 8, 17, 19, 27A, or 49.

(2) New Construction means:

(A) any new building; and

(B) any addition or renovation of an existing building that replaces 50% or more of the existing first floor exterior walls, measured around the perimeter of the building.

(3) Owner means a person who has legal record title to the real property on which the new construction is proposed.

(b) Authorization to Defer. An owner or other applicant may defer payment of a fee associated with new construction, if the fee exceeds \$400 and all other requirements of this Section are met, for 12 months after the fee is otherwise due.

(c) Conditions of Deferral.

(1) An owner must apply for deferral of a fee to the Director on a form supplied by the Department.

- (2) As part of the application, the owner must execute a written agreement with the Director. The agreement must provide that the owner consents to all terms and conditions of the deferral, including the collection of deferred fees through the tax sale process and recordation of the agreement or notice of the agreement in the County land records.
- (3) The Director must record the agreement or notice of the agreement in the County land records. The notice must include a conspicuous statement that indicates it is being recorded by or on behalf of the County.
- (d) Events accelerating payment. All deferred fees and accumulated interest and penalty, if any, become immediately payable when:
- (1) the ownership of the property subject to a lien for repayment of the deferred fees is transferred; or
- (2) the property becomes subject to tax sale.
- (e) Payment, Early Payment; Termination of Lien.
- (1) An Owner must pay a deferred fee on or before the end of the deferral period.
- (2) After the owner pays the deferred fees and any accrued interest and penalty, the Director must record a notice of termination of the fee deferral lien in the County land records. The notice must include a conspicuous statement that indicates it is being recorded by or on behalf of the County.
- (f) Delinquent Fees.
- (1) Interest and Penalty. Any fee paid after the deferral period expires accrue interest and penalty on the amount of the deferred

79 fees until paid at the rate which applies to delinquent real
80 property taxes.

81 (g) Lien on Real Property and Collection. All fees deferred and any
82 accrued interest and penalty constitute a first lien on the real property to
83 which the fees apply until paid. The deferred fees may be collected by
84 suit or tax sale as with all other real property taxes. If any person liable
85 does not pay all deferred fees as provided, the property may be certified
86 to the Department of Finance and the lien may be sold at the next tax
87 sale the County conducts. All deferred fees constitute a personal
88 liability of the owner of the property.

89 (h) Penalties for False or Fraudulent Information. A person who knowingly
90 submits a false or fraudulent application or statement or withholds
91 information in order to obtain a deferral under this Section:

92 (1) has committed a Class A violation.

93 (2) is liable for and must repay to the County any deferred fees plus
94 interest and penalty at the rate which applies to delinquent real
95 property taxes from the date of the deferral to the date of
96 payment; and

97 (3.) is liable for all court costs and expenses of the County, including
98 attorney's fees, in a civil action brought by the County.

99 (i) Regulations. The County Executive may adopt regulations under
100 method (2) to administer this fee deferral program.

101 **Sec. 2. Sunset.** County Code Section 2-42C, inserted by Section 1 of this
102 Act, expires on April 1, 2010.

Sec. 3. Expedited Effective Date. The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect 60 days after it becomes law.

Approved:

Philip M. Andrews, President, County Council

Approved:

Isiah Leggett, County Executive Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 5-09

Permit Fees -- New Construction - Deferral

DESCRIPTION: Adds new Sections to the law to allow the deferral of the payment of permit fees and other fees for new construction for 12 months.

PROBLEM: The current economic climate impacts the ability of builders to pay the fees prior to construction.

GOALS AND OBJECTIVES: By deferring payment of fees the legislation will encourage new construction.

COORDINATION: Department of Permitting Services.

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: Subject to the general oversight of the County Council and County Executive.

EXPERIENCE ELSEWHERE: Not applicable

SOURCE OF INFORMATION: Tom Street, Assistant Chief Administrative Officer (240-777-2559)

APPLICATION WITHIN MUNICIPALITIES: Yes.

PENALTIES: Class A violation.

BILL



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Isiah Leggett
County Executive

OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

MEMORANDUM

February 4, 2009

TO: Phil Andrews, President
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Proposed Legislation – Deferral of Permit Fees

I am attaching for the Council's consideration a bill which would allow a business to defer payment of permit, inspection, license, and engineering fees for 12 months. I am also attaching a Legislative Request Report for the proposed bill.

This bill is one of four legislative proposals which I am submitting to the Council to implement the 11-point economic plan which I announced in December 2008. Each legislative proposal is designed to ease some of the difficulties experienced by local businesses as a result of the national economic downturn. The current economic climate impacts the ability of builders to pay permit, inspection, license, and engineering fees before construction. Allowing a builder to defer payment of these fees will help to encourage new construction which is aimed at retaining existing jobs and creating new job opportunities. This deferral is only temporary and enables the payment to be made at a point in the development process that is closer to when a builder can expect to receive income from a project. This will reduce carrying costs for a project.

My 11-point economic plan included a proposal to provide an economic impact analysis for all legislative and regulatory changes which would analyze the impact of each proposed change on local businesses. We are in the process of completing an economic impact analysis for this bill and will forward it to Council in the near future along with the normal fiscal impact statement. I look forward to working with the Council as it considers this bill and my other three legislative proposals which provide opportunities for some measure of relief to our business community and residents.

IL:dg

Attachments (2)